Neutrals

1. Mr. M. Nanu Menon.
2. ,, Eachara Menon.
3. ,, V. K. Bhaskara Menon.
4. ,, T. A. Ramachandra Ayyar.
5. ,, C. N. Ittiravi Nambudiri.
6. ,, K. Astamoorthi Nambudiripad.
7. ,, C. Kunhan Nambudiripad.
8. ,, T. K. Nayar.
9. Rama Varmha Tampuran.
10. Mr. A. Madhava Prabhu.
11. Mr. M. M. Paul.
12. ,, M. Sivarama Menon.
13. ,, C. J. Mathew.
14. ,, T. Narayana Menon
15. Rao Sahib I. N. Menon.
16. Rao Sahib Dr. T. Verghese.
17. Mr. Parambi Lonappan.
18. ,, V. K. Aravindaksha Menon
19. ,, P. V. Raphael.
20. Khan Sahib Y. Muhammad Roshan Sahib Bahadur.

Mr. President: 27 for 6 against, and 20 neutrals.

The motion is carried.

Cut motion No. 10 of the printed list was disallowed

Mr. V. J. Mathai *(Planters)*: Sir, I wish only to make a statement. I find that the Government are making endeavours to solve the problem. A committee has been appointed and it will meet shortly. In view of that I do not wish to move cut motion No. 11 of the printed list.

CUT MOTION No. 4

Cattle trespass problem

Mr. V. J. Mathai *(Planters)*: Sir, I beg to move *to reduce the allotment of Rs. 6,00/ for Huzur Secretariat, Minister for Rural Development, by Re. 1. (The Minister's failure to tackle the problem of Cattle Trespass).*

Sir, I know that the House is very impatient and wants to get through more business. Therefore, I will state the position very shortly. Any lover of agriculture and the agriculturists will certainly take the first step to solve the question of cattle trespass. The position is simply this. Government says it encourages agriculture as far as possible and everywhere the need of agriculture and the importance of agriculture is felt. That is the first point. I am only stating points. What we find is that both the chief enemy of agriculture and the chief helper in agriculture is cattle. While they help to develop agriculture, by the carelessness of the owners of cattle all the crops are eaten away. One has only to go to the villages to see what damages are caused by cattle to the crops. When I was coming from my little estate with a friend of mine I had occasion to see a woman weeping early in the morning saying that all her tapioca was finished. There was not a single leaf on any stem. The owners of cattle are careless. There are fileds and fields where tapioca and plantains and other crops have been eaten away by cattle. It is a heartrending sight. No less experienced a planter than Mr. E. F. M. Norman has been repeatedly telling me "there is no use of your being a planter member unless you put the question before the House". This is a very urgent problem. The position is this. You rear cattle and the cattle grow on another man's crops. Suppose I rear a tiger to destroy this very same cattle. What will be the uprorar? A's cattle goes and eats B's crops. B rears a tiger to eat A's cattle. What will be the uproar?

Mr. President: Have you a definite scheme?

Mr. V. J. Mathai *(Planters)*: I have got a definite scheme. The simple scheme is this: Prohibit the allowing of cattle to stray anywhere except on the owner's property.

Mr. A. B. Salem *(Mattancheri)*: Then how will they graze ?

Mr. V. J. Mathai *(Planters)*: If there are common grazing grounds that will be the only place in which cattle may be seen unless accompanied by owners. In all other cases if I rear cattle I must keep them within my compound. Otherwise arrest them like trespassers. Give power to the police to seize them. If anybody will come with me I will show the nimbleness of the cattle, especially in the eastern parts. Suppose there is only a woman in the house. And suppose a cow jumps over the fence and gets into the compound can you expect that poor woman to catch that cow? That you can take them to the pound is easily said. I have two watchmen in my estate. But it is impossible to prevent these cattle trespassing into it.

Mr. President: Is it your intention that the Police should guard your estate ?

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Mr. V. J. Mathai *(Planters):* Certainly not. If the Police find stray cattle outside they must have power to catch them and to take them to the pound. The agriculturist must have power to appeal to the Police to come and take the cattle.

Secondly, if I take a cow or a bull which has destroyed my crop the owner of that cow or bull must be dealt with severely. In Travancore the fine is very high.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* Here it is Rs. 50.

Mr. V. J. Mathai *(Planters):* It is not enough that it is fixed at Rs. 50. It must be levied as a rule without any exemption. You fix the Maximum fine at Rs. 50 but then fine only Re. 1. Levy Rs. 50 or let the owner lose the cattle.

I have got another suggestion also. The suggestion is to give power to the Village Courts to decide cases of compensation for destruction of crops by cattle. This is an important scheme. The Government are wider than I. The Government should immediately consider the question. The matter is of urgent importance. The Government should immediately go into the question and try to find out the remedies. To go to the Munsiff's Court with a suit for compensation for damages of crops for Rs. 5 will be very difficult. Suppose a cow has destroyed my crop to the sum of Rs. 7. If I go to Ernakulam for filing a suit one trip will cost me more than Rs. 7 including "feeding charges for the vakil". Give power to the Village Courts so that even in small cases anybody could go and complain. For that civil remedy, give power to the Village Courts so that the poor farmer could go there and file a suit. The Judges could immediately go to the spot and examine the damage caused, or they could depute a clerk to go and inspect the spot. My only prayer is that the Hon'ble Minister should not think that I want to move this motion as a censor motion or a no-confidence motion. This is only to draw the attention of the Government to this all important matter.

Mr. T. K. Nayar *(Minister for Rural Development):* I have nothing to go with cattle trespass. The only connection between cattle and the Minister is that agriculture comes under the Minister.

Mr. V. J. Mathai *(Planters):* The connection between agriculture and cattle is there will be no agriculture without cattle. But there is no use of agriculture if the crops are allowed to be eaten away by cattle.

Mr. T. K. Nayar *(Minister for Rural Development):* It is a reserved subject.

Mr. V. J. Mathai *(Planters):* On account of that technicality does this go?

Mr. A. Madhava Prabhu *(Diwan Peishkar):* No. No.

Khan Sahib Y. Muhammad Roshan Sahib Bahadur *(Commissioner of Police):* Sir, upon this subject we have at present the Cattle Trespass Act in the State which is identical with what we have in the Madras Province and other Provinces. In that Act there are provisions to deal with cattle that damage the crops. The Police have been given the power to impound such cattle only in cases where damage is done to the public properties like roads and canals. In other cases the Police cannot interfere. The Police can also interfere in cases where stray cattles are likely to become the subject-matter of theft. In framing the Cattle Trespass Act it seems that the law-makers have taken particular care to give sufficient safeguards to the cattle themselves and not so much to the owners of cattles. If the means of penalising the owners are made so easy, then practically we will have every day quite a large number of cattle going to the pounds and if cattles are impounded so easily then the owners would have no other way than to keep them without proper exercise. So if we make the Act too severe then we will have to penalise all the cattle. It is absolutely necessary that in this State sufficient encouragement should be given for cattle breeding. If we look at the question from the point of crops then we are not thinking of the cattle and if we look at the question from the point of cattle, then we are not thinking of crops.

Then with regard to the next question of transferring these cases to the Village Courts, according to me, if this power is given to the Village courts it will give rise to Village factions. For example one section may own crops and another section may own cattle. The two interests will come into conflict and there will be trouble.

It is, as in the case of the Child Marriage Restraint Act, a sort of safeguard—that it must go to a certain type of magistrates. If we transfer it to the Village Courts naturally that will give rise to factions.

Mr. V. J. Mathai *(Planters):* Not the criminal office. There are two remedies. Under the law of Torts one is a criminal action and the other is a civil action. I am speaking only of the civil remedy.

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Khan Sahib Y. Muhammad Roshan Sahib Bahadur *(Commissioner of Police):* When we have got a special Act on the subject it will be rather vague to seek remedy under the general law of damages.

Mr. C. V. Iyyu *(Kunnamkulam):* May I know whether the Government will experiment this system in at least one or two Village Courts and see whather it succeeds. The conditions in the eastern district is not the same as here. The Village Court Judges are eminent and respectable gentlemen chosen by the Government.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* As you suggested there are two or three remedies. One is giving power to the Policeman. That point has already been dealt with by the Commissioner of Police. So far as fine is concerned it has been raised to Rs. 50. It only remains to be enforced. The notification has only been recently published. We have to wait and see how it works.

So far as section 30 is concerned it says: "Nothing herein contained prohibits any person whose crops or other produce of land have been damagnd by trespass of cattle from suing for compensation in any competent Court". Now you want the jurisdiction to be taken from the ordinary civil court to the Village Court. That is a matter which I do not think can be so easily answered. That requires greater consideration. We will give due consideration to your suggestions. On the face of it it looks that it has got the disavantages pointed out by the Commissioner of Police.

Mr. V. J. Mathai *(Planters):* Sir, I must disabuse the mind of the Commissioner of Police that in these places there is no question of one section fighting against another section and all that. There is no village fighting against another village. As in Tamil District and the Andhra District there is no group of men in one village fighting against another group of men in another village. We all have been living like brethren. The point of the possibility of factious fight will not apply here. The fight will be between individuals. The Hon'ble Police Commissioner said that there is a possibility of grudge arising between two individuals. That exactly is the point in my mind. If I take A's cattle to the pound he becomes my enemy. It was only recently that in Mulanthuruthi a decent gentleman was assaulted by another man because his cow was taken to the pound.

Mr. C. V. Iyyu *(Kunnamkulam):* In Chemmanthitta a man was actually murdered.

Mr. V. J. Mathai *(Planters):* There are places in which cattle are not even penned during the night. That is the whole point. In Eastern Mulanthuruthi and in places like Nemmara very many people don't tie down their cattle during night. I only say that they must be made to look after their cattle.

Mr. A. B. Salem *(Mattancheri):* Are there not village pounds?

Mr. V. J. Mathai *(Planters):* You cannot go and run after all these cattle. I challenge you to catch a cow which I shall point out to you. They are more nimble than antelopes.

As regards the penalty I would draw the attention of the Hon'ble Diwan Peishkar to the fact that what is required is not an amendment of the Act but the enforcement of the penalty. I may point out that during the time of Sir Shanmukham because of the nuisance of cattle in towns an order was passed and enforced that no cattle should be seen straying in the towns and a penalty of Rs. 25 was then levied. After two fines you found not a single cow or bull on the roads.

Therefore, please sympathetically consider the question of raising the penalty and enforcing it.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* We have already raised it. The question is of enforcement. The fine imposed in the pound has also been enhanced. It is doubled. In the Criminal Courts the Magistrates will see that exemplary punishment is meted out.

Mr. V. J. Mathai *(Planters):* How much money has to be spent. How many witnesses have to be examined. Will a lawyer of the standing of our Hon'ble Diwan Peishkar go to a Magistrate's court for Rs. 5.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* A lawyer of my standing is not necessary to conduct this case.

Mr. V. J. Mathai *(Planters):* My experience as a lawyer tells me that the minimum cost of conducting a criminal case will be Rs. 200. You can ask the Advocate-General whether I am right. Litigation is very expensive, Sir. Please by all means if you can possibly do it without violating the general policy of the Government, please transfer the power of trying cases below Rs. 50 to the Village Courts; please do it. I think there was a resolution in the Panchayat Conference on this matter.

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Mr. T. K. Nayar *(Minister for Rural Development):* I think there was a resolution regarding this.

Mr. V. J. Mathai *(Planters):* Then I am supported by all the Panchayatdars. I have nothing more to say. I only draw the attention of the Government to this matter. I hope it will be seriously considered.

Mr. President: I may inform the House that the Government have already taken steps to stiffen up the work of prevention of cattle trespass. The penalty provided under the Cattle Trespass Act has recently been enhanced from Rs. 10 to Rs. 50. A notification to this effect has been recently issued. The question of increasing the number of cattle pounds to secure the more efficient working of the Act is also under the consideration of Government. The existing rates of fine for cattle impounded in the pounds have been doubled. The various heads of departments concerned have been asked to see that vigilance is exercised in regard to any stray cattle which are doing damage to crops and plantations. I can assure the Hon'ble Member that the recommendations made by him will receive the earnest consideration of the government.

Mr. V. J. Mathai *(Planters):* Sir, I beg leave of the House to withdraw my motion.

Motion by leave withdrawn

CUT MOTION No. 5

Extension of time for payment of arrears under the Verumpattamdars Act

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Mr. President, the cut motion standing in my name reads thus.—"*To reduce the allotment of Rs. 66,262 for Establisment—Huzur Secretariat by Re. 1.* (To request the Government *to issue a Proclamation extending the time for payment of arrears under the Verumpattam Tenants Act by another year).* The object that I have in view in moving this cut motion is simply to place before the Government the absolute necessity of coming to the rescue of the ryots of the land by the issue of a Proclamation of the sort that is requested for in this cut. One of the Sections of the Verumpattam Tenants Act recently passed and also the amendment that immediately followed that enactment insists upon the tenants to pay off the arrears inclusive of 19th Kumbham 1118, the date of the passing of the Act, within 6 months of that date. That is an imperative provision of the Act and the consequences of non-payment within that period of 6 months are that the jenmi if he takes it into his head to file a suit against the tenant for surrender of the land or to evict the tenant from the holding there is no option to the court but to pass a decree thereby depriving the tenant of his rights to be the perpetual owner of the land which is a thing so graciously granted by His Highness. I would respectfully place before this House that what His Highness in his benevolence has been pleased to grant, for which we are all grateful, that benevolence of His Highness is not allowed to be enjoyed by that strict provision in the Act. The prayer here is that that provision may be made a little elastic or rather the period may be extended thereby giving the tenant 12 months' more time from the 19th Chingam 1119 to pay up some how or other, to collect the amount some how or other, and clear off the arrears. What are the equities of such a Proclamation following. To the benefit of the tenant he gets 12 months' time to find out the money some how or other necessary to pay off the landlord. Are the equities against the landlord, is a point to be considered in discussing this motion. The right of eviction which the Act grants to the jenmi to come forward with a suit on the 20th Chingam 1119 is put off to the 20th of Chingam 1120. For 365 days more a jenmi cannot have the land of the tenant. Nothing less, nothing more. He cannot be asked to get out within that time. If the Proclamation is graciously issued as requested through this cut the jenmi has to wait both for the collection of the arrears as also for exercising his right of eviction against the tenant for 365 days. That is the simple proposition that I have placed before this House through this cut motion. There is not much of loss to the jenmi but there is a lot of gain to the tenants which is his legitimate due. If you go into the history of these arrears and the accumulation thereof you will be pleased to find that the accumulated arrears have come its present stage by a process of various circumstances over which the poor tenant had absolutely no control. Therefore, it is only in the fitness of things that the tenant be allowed a little more time to pay off his arrears and thus save the forfeiture that is in the Act. That is the simple prayer. I do not think that there will be any dissentient voice in this House on this matter. Even the representative of the jenmi, not to speak of the other jenmies, will feel that they ought to help us in this matter. My appeal to the jenmies in this House is that they will be pleased to give the poor tenant an extension of time by 365 days. They do not lose anything much. It is only an extension of the period. On the

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